

Date: July 18, 2014

To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Marvin G. Williams, Director of Public Works
Subject: License Agreement with Swift Avenue-FCA, LLC

Executive Summary

Swift Avenue-FCA, LLC proposes to install and maintain street trees and an irrigation system within the Swift Avenue and Hull Avenue right-of-ways (see attached map). A license agreement is required when private features, such as street trees and irrigation systems, are installed within the City's maintained right-of-way. Pursuant to Section 62-56 of the City of Durham Code of Ordinances, Swift Avenue-FCA, LLC seeks approval of the License Agreement from City Council.

Recommendation

The Department of Public Works recommends that the City Council authorize the City Manager to enter into a license agreement with Swift Avenue-FCA, LLC.

Background

Swift Avenue-FCA, LLC proposes to install and maintain street trees and an irrigation system within the Swift Avenue and Hull Avenue right-of-way at 300 Swift Avenue (see attached map). Per Section 62-56: "Sidewalks, curbs, gutters, street paving for private interests – Excavations, permits, licenses, and franchises" of the City of Durham Code of Ordinances, a license agreement is required when privately owned and/or maintained features, such as street trees and irrigation systems, are proposed to be installed within the City's maintained right-of-way.

Swift Avenue-FCA, LLC is the owner of Swift Avenue Multifamily. The apartment development was approved as site plan D1200284. The street trees are a requirement of the landscaping plan of the site plan. The irrigation system will serve the required street trees (see attached exhibit).

Issues/Analysis

Any feature in the right-of-way has the potential to pose a hazard to the public, and to increase liability to the licensee. To the maximum extent allowed by law, Licensee shall indemnify and save harmless Indemnities from and against all Charges that arise in any manner from, in connection with, or out of this license as a result of acts or omissions of Licensee or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Alternatives

City Council can choose not to approve the request.

Financial Impact

The Licensee will assume the cost of installation, maintenance, and repair, including the cost of repairs to the street and pavement associated with the installation, maintenance, and repair of the trees and irrigation system.

SDBE Summary

The SDBE Summary is not applicable for this update.